

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
CIVIL DIVISION**

CESAR ALEMAN, on behalf of
himself and all other similarly situated,

Plaintiffs,

v.

GC SERVICES LIMITED
PARTNERSHIP,

Defendant.

Case No. _____
INDEX NO. 624657/2018

NOTICE OF REMOVAL

Defendant GC Services Limited Partnership (“GC Services”), by its undersigned counsel, Emily Kirsch, hereby provides notice pursuant to 28 U.S.C. §§ 1441(a) and 1446 of the removal of the above-captioned case from the Supreme Court of the State of New York, Suffolk County, to the United States District Court for the Eastern District of New York. As grounds for removal, GC Services states as follows:

Background

1. On December 14, 2018, Plaintiff Cesar Aleman (“Plaintiff”) filed a Summons with Notice in the Supreme Court of the State of New York, Suffolk County. No Complaint was filed at this time. A true and correct copy of the Summons with Notice is attached as Exhibit A.

2. No further action took place until April 12, 2019, when Plaintiff served the Summons with Notice on the Secretary of State. A true and correct copy of the Secretary of State letter is attached as Exhibit B.

3. Plaintiff's Summons with Notice alleges violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et seq. and, under 28 U.S.C. § 1441(a), is removable to this Court.

4. Defendant GC Services was served with the Summons with Notice by the Secretary of State on April 29, 2019.

5. As of the date of the filing of this Notice of Removal, GC Services has not been served with the Complaint nor has the Complaint been filed in state court.

Federal Question Jurisdiction

6. This Court has original jurisdiction under 28 U.S.C. § 1331 as Plaintiff alleges violations of a claim or right arising under the laws of the United States.

7. Specifically, Plaintiff's Summons with Notice alleges violations of the FDCPA, 15 U.S.C. § 1692 *et seq.*

8. Therefore, this action is subject to removal pursuant to 28 U.S.C. §§ 1331 and 1441(a) at the request of GC Services, because Plaintiff's claims arise under the laws of the United States.

Venue

9. Under 28 U.S.C. § 1441(a), the United States District Court for the Eastern District of New York is the proper venue for removal because this suit is pending in the Supreme Court of the State of New York, Suffolk County, which lies within the Eastern District of New York.

Procedural Compliance

10. Removal of this action is timely. 28 U.S.C. § 1446(b) provides, “[t]he notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based[.]” This Notice of Removal is being filed with the United States District Court for the Eastern District of New York within thirty (30) days after GC Services was served with the Summons with Notice, via the Secretary of State on April 12, 2019.

11. GC Services attaches to this Notice of Removal as Exhibit A, and incorporates by reference, a copy of Plaintiff's Summons with Notice. The Summons with Notice is the only “process, pleadings or orders” obtained by GC Services in this action. 28 U.S.C. § 1446(a).

12. GC Services is serving contemporaneously with this filing a copy of this Notice of Removal upon Plaintiff. GC Services will also file with the Clerk for

the Supreme Court of the State of New York, Suffolk County, a Notice of Filing of Notice of Removal, as required by 28 U.S.C. § 1446(d).

13. By filing a Notice of Removal in this matter, GC Services does not waive its right to object to service of process, the sufficiency of process, jurisdiction over the person, or venue. No admission of fact, law, or liability is intended by this Notice, and GC Services specifically reserves the right to assert any defenses and/or objections to which they may be entitled.

14. Based upon the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, and this action is properly removed to this Court.

WHEREFORE, GC Services Limited Partnership hereby gives notice that the above-captioned action, currently pending in the Supreme Court of the State of New York, Suffolk County, is hereby removed to this Court. GC Services Limited Partnership requests this Court order Plaintiff to replead, asserting specific causes of action, or in the alternative, to file his Complaint with this Court on or before May 17, 2019.

Dated this 10th day of May, 2019.

Respectfully submitted,

s/ Emily Kirsch

Emily Kirsch

KIRSCH & NIEHAUS

150 East 58th Street, 22nd Floor

New York, NY 10155

Office: (212) 832-0170

Main: (917) 744-2888

Email: emily.kirsch@kirschniehaus.com

**ATTORNEYS FOR DEFENDANT,
GC SERVICES LIMITED
PARTNERSHIP**

CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2019, a true and correct copy of the foregoing Notice of Removal was delivered via electronic filing on all counsel of record, and/or via first-class mail, postage prepaid, upon the following:

Mitchell L. Pashkin, Esq. (MLP-9016)

775 Park Avenue, Suite 255

Huntington, NY 11743

Telephone: (613) 335-1107

Email: mpash@verizon.net

ATTORNEY FOR PLAINTIFF

s/ Emily Kirsch